

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

NAVIGATORS SPECIALTY INSURANCE
COMPANY

Plaintiff,

v.

PENSKE TRUCK LEASING CO., L.P.

Defendant.

§
§
§
§
§
§
§
§
§
§

Civil Action No. 5:24-cv-00231-H

**STIPULATION REGARDING DEFENDANT PENSKE TRUCK LEASING CO., L.P.’S
MOTION TO DISMISS PLAINTIFF NAVIGATORS SPECIALTY INSURANCE
COMPANY’S ORIGINAL COMPLAINT FOR DECLARATORY JUDGMENT AND
BERKLEY REGIONAL INSURANCE COMPANY’S ORIGINAL COMPLAINT IN
INTERVENTION OR, IN THE ALTERNATIVE, TO STAY [ECF NO. 23]**

Penske Truck Leasing Co., L.P. and Navigators Specialty Insurance Company agree and stipulate as follows regarding Penske’s November 13, 2024 motion, pursuant to *Brillhart v. Excess Insurance Co. of America*, 316 U.S. 491 (1942), and *St. Paul Insurance Co. v. Trejo*, 39 F.3d 585 (5th Cir. 1994), to dismiss Navigators’ original complaint for declaratory judgment and Berkley Regional Insurance Company’s original complaint in intervention or, in the alternative, to stay [ECF No. 23]:

1. Navigators’ March 19, 2025 first amended complaint for declaratory relief [ECF No. 56] did not render Penske’s motion [ECF No. 23] moot because the new allegations in Navigators’ first amended complaint relate to Penske’s citizenship for purposes of the Court’s subject matter jurisdiction under 28 U.S.C. § 1332(a); the new allegations do not address the issues raised in Penske’s motion. *See, e.g., Cooper v. Canidae Corp.*, No. 6:20-CV-077-H, 2020 U.S. Dist. LEXIS 265744, at *7 (N.D. Tex. Dec. 17, 2020) (declining to moot pending motion to dismiss that “raises arguments that remain germane to the amended complaint”).

2. Navigators' April 9, 2025 second amended complaint for declaratory relief [ECF No. 61] did not render Penske's motion [ECF No. 23] moot because the new allegations in Navigators' second amended complaint relate to the two different insurance policies issued by Berkley to Speedy Delivery LLC; the new allegations do not address the issues raised in Penske's motion. *See Cooper*, 2020 U.S. Dist. LEXIS 265744, at *7.

3. Navigators and Penske have no objection to the Court applying Penske's fully briefed motion [ECF No. 23] to Navigators' second amended complaint and ruling on Penske's fully briefed motion without further briefing.

Dated this 23rd day of April, 2025.

Respectfully submitted,

DIANA BROOKS LAW PLLC

BY: 

Diana Brooks

State Bar No. 24063991

(972) 345-1496

Julia Daneshfar

State Bar No. 24101670

(945) 248-8067

5900 S. Lake Forest Dr., Ste. 240

McKinney, Texas 75070

Main: (469) 714-0012

Diana@dianabrookslaw.com

Julia@dianabrookslaw.com

BAKER STERCHI COWDEN & RICE LLC

By: /s/ Scott D. Hofer

Scott D. Hofer, MO #44587 (*pro hac vice*)

Angela Probasco, MO #68611 (*pro hac vice*)

2400 Pershing Road, Suite 500

Kansas City, MO 64108

816-471-2121

shofer@bakersterchi.com

aprobasco@bakersterchi.com

Counsel for Penske Truck Leasing Co., L.P.

CHAMBERLAIN, HRDLICKA, WHITE,
WILLIAMS & AUGHTRY, P.C.

By: 

Christine Kirchner

State Bar No. 00784403

c.kirchner@chamberlainlaw.com

Chris M. Lemons

State Bar No. 24094799

Chris.lemons@chamberlainlaw.com

Mary "Katy" Andrade

State Bar No. 24118606

Katy.andrade@chamberlainlaw.com

1200 Smith Street, Suite 1400

Houston, Texas 77002

(713) 658-1818

CRAIG, TERRILL, HAMM, GROSSMAN &
ERWIN, LLP

Robert J. Craig, Jr.

State Bar No. 04987300

bobc@cthgelawfirm.com

Marcy Erwin

State Bar No. 240472248

merwin@cthgelawfirm.com

9816 Slide Road, Suite 201

Lubbock, Texas, 79424
(806) 744-3232

*Counsel for Navigators Specialty Insurance
Company*